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PATENT
Attorney Docket No. 304

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Tomas Brenner, et al. .)
Serial No.: 09/493,313) Group Art Unit: Unassigned
Filed: January 28, 2000) Examiner: Unassigned
For: OPTICAL DEVICE HAVING DYNAMIC)
CHANNEL EQUALIZATION)

RECEIVED

MAY 20 2003

OFFICE OF PETITIONS

Attn: DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir/Madam:

TRANSMITTAL LETTER

Applicant encloses the following documents in response to the Notice of Abandonment:

1. Statement Establishing Unintentional Delay;
2. Petition For Revival of an Application for Patent Abandoned Unintentionally;
3. Form PTO-1533;
4. Response To Notice To File Missing Parts Of Application (in duplicate, with authorization to charge our Deposit Account);
5. Declaration/Power of Attorney;
6. Assignment to CIENA Corporation;
7. Recordation Cover Sheet (in duplicate);
8. Check in the Amount of \$3,570.00;
9. Authorization to Charge of Remaining Fee of \$144.00 to the Deposit Account.

Certification Under 37 C.F.R. Section 1.10

I hereby certify that this Statement Establishing Unintentional Delay and other associated documents are being deposited with the United States Postal Service on this 7th day of March 2003 in an envelope marked as "Express Mail Post Office to Addressee" Mail Label Number EV173343256US addressed to Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Carol S. Parker-Hines
(type or print name of person mailing paper)

(signature of person mailing paper)

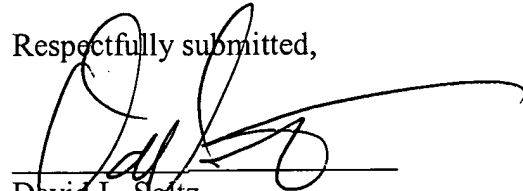
Please charge any deficiency as well as any other fee(s) or credit any over payment of such fee(s) to Deposit Account No. 50-0308.

If there are any other fees due in connection with the filing of this response, please charge such fees to our deposit account. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: March 7, 2003

By:


David L. Seltz
Reg. No. 34,731

CIENA Corporation
Legal Department
1201 Winterson Road
Linthicum, MD 21090
(410) 865-8500
(410) 865-8001 (fax)



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PATENT
Attorney Docket No. 304
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/493,313)
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Group Art Unit: Unassigned
Examiner: Unassigned

Assistant Commissioner for Patents
Washington, D.C. 20231

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MAY 20 2003

OFFICE OF PETITIONS

Sir:

STATEMENT ESTABLISHING UNINTENTIONAL DELAY

This Statement Establishing Unintentional Delay accompanies a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b).

The above-identified application was filed on January 28, 2000 by the undersigned, an in-house attorney with CIENA Corporation. The application was filed without a declaration and without the requisite filing fee. A post card receipt evidencing the filing of the application was forwarded to Applicants' representative shortly thereafter. After filing the application, no further correspondence was received from the U.S. Patent and Trademark Office (USPTO). Accordingly, after a review of various patent application filings within CIENA's Legal Department, a Status Inquiry was filed with the USPTO on September 26, 2002, requesting the status of the above-identified application. Applicants were then sent a letter from the USPTO dated January 23, 2003, including a Notice To File Missing Parts and a Notice of Abandonment for failing to respond to the Notice To File Missing Parts. The USPTO's January 23, 2003 letter also alleged that there was no correspondence address in the file. Thus, the Notice To File Missing Parts and the Notice of Abandonment were not sent to the Applicants because the USPTO did not identify an address to

send these papers to. Since Applicants did not receive these papers, Applicants did not respond to them. As soon as Applicants received these papers, Applicants quickly took action to file the attached Petition, and respond to the Notice to File Missing Parts.

Although the USPTO indicated that Applicants' correspondence address was not of record, Applicants respectfully point out that a post card, with the correspondence address was received, and an Express Mail airbill also indicates Applicants' correspondence address. Moreover, the application was signed by the undersigned herein, who is a registered patent attorney, and who's address is of record in the USPTO attorney/agent roster. Accordingly, Applicants respectfully submit that an address was present in the file, and could have been used by the USPTO to forward the Notice to File Missing Parts.

Applicants were not aware of the outstanding Notice to File Missing Parts, nor that the USPTO could not identify a correspondence address, because the undersigned's docketing system only tracks received USPTO correspondence and due dates for responding to such correspondence. In this instance, since no correspondence was received, none was logged into the docketing system and no reply dates were generated. Corrective action has since been taken to log a date for filing a status inquiry in the event no USPTO correspondence is received within six months of the filing of an application.

In light of the foregoing, Applicants respectfully submit that the abandonment of the above-identified application was unintentional, and request that the attached Petition be granted. In order to complete the initial application filing, Applicants submit herewith copies of the declaration executed by the inventors, along with a copy of the Notice to File Missing Parts. The following fees are due in connection with the filing of this petition: (1) \$750.00 – basic filing fee including additional claims; (2) \$130.00 - Missing Part Surcharge pursuant to 37 C.F.R. § 1.16(e);

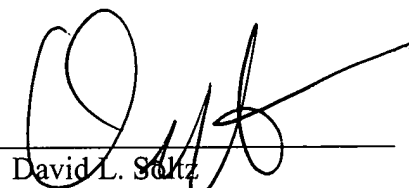
(3) \$1,450.00 – Four Month Extension; (4) \$1,300.00 – Fee for Petition to revive unintentionally abandoned application and (5) \$84.00-for one independent claim in excess of three. Accordingly, total fees due are \$3,714.00, of which \$3,750.00 are covered by a check enclosed herewith. Please charge the remaining balance of \$144.00 to our Deposit Account No. 50-0308.

If there are any fees due in connection with the filing of the attached Petition, please charge the fees to our Deposit Account. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: March 7, 2003

By:


David L. Soltz
Reg. No. 34,731

CIENA Corporation
Legal Department
1201 Winterson Road
Linthicum, Maryland 21090
(410) 865-8500
(410) 865-8001 (fax)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/493,313	01/28/2000	Tomas Brenner	304

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unknown
unknown
Washington, DC 20002

CONFIRMATION NO. 2073

ABANDONMENT/TERMINATION
LETTER

OC000000008273039

Date Mailed: 06/12/2002

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/16/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

A copy of this notice **MUST** be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



BEST AVAILABLE COPY
PATENT
Attorney Docket No. 304

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Tomas Brenner, et al. .)
Serial No.: 09/493,313)
Filed: January 28, 2000)
For: OPTICAL DEVICE HAVING DYNAMIC)
CHANNEL EQUALIZATION)

Group Art Unit: Unassigned
Examiner: Unassigned

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MAY 20 2003

OFFICE OF PETITIONS

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir/Madam:

**RESPONSE TO NOTICE TO FILE
MISSING PARTS OF APPLICATION**

In response to the communication of August 16, 2001, Applicants submit a Declaration/Power of Attorney for filing in the above-identified application, and a copy of the Notice of Missing Parts. Authorization is hereby granted to charge the basic filing fee, additional claim fee and surcharge totaling \$898.00 to our Deposit Account No. 50-0308.

Please associate the enclosed declaration with the above-identified application.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account. If a fee is required for an extension of time under 37 C.F.R. §


1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

BEST AVAILABLE COPY

Respectfully submitted,

Dated: March 7, 2003

By:


David L. Soltz
Reg. No. 34,731

CIENA Corporation
Legal Department
1201 Winterson Road
Linthicum, MD 21090
(410) 865-8500
(410) 865-8001 (fax)



3-10-03

MP

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/493,313	01/28/2000	Tomas Brenner	304

BEST AVAILABLE COPY

unknown
unknown
Washington, DC 20002

CONFIRMATION NO. 2073

FORMALITIES LETTER



OC000000006431527

Date Mailed: 08/16/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 690 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$78.
 ■ \$78 for 1 independent claims over 3 .
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 898.

A copy of this notice **MUST** be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 306-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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MAY 20 2003

OFFICE OF PETITIONS

03/17/2003 WEBER 00000108 89492313

04 100-1001	750.00 00
02 700-1031	120.00 00
03 700-1031	84.00 00